

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

**FILED**

In Re:

Anne Georges Telasco,

2022 FEB 11 PM 1:27

U.S. BANKRUPTCY COURT  
W.D.N.Y. ROCHESTER

AFFIDAVIT IN SUPPORT OF  
APPLICATION FOR ENTRY  
OF FACT OF DEFAULT  
[Bankruptcy Rule 7055(a)]

Debtor(s).

Anne Georges Telasco,

Plaintiff(s),

BK Case No. 2-21-20280-PRW

AP Case No. 2-21-02003-PRW

vs.

US Department of Education,

Defendant(s).

The undersigned, being duly sworn, deposes and states that:

1. I am an attorney admitted to practice before this Court and am the attorney to the Plaintiff in this action (or, in the alternative, I am the Plaintiff in the above captioned Adversary Proceeding and appear pro se).
2. I make this Affidavit in support of Plaintiff's request that the Clerk of Court certify and enter the "Fact of Default" of Defendant, US Department of Education, ("Defendant"), pursuant to Federal Rules of Bankruptcy Procedure ("Bankruptcy Rule") 7055(a).
3. The Plaintiff ☒ does ☐ does not consent to entry of final order by the Bankruptcy Court (check appropriate box).
4. On November 22, 2021, a copy of the Summons and Complaint was served on Defendant pursuant to Bankruptcy Rule 7004.
5. A Certificate of Service detailing the date, time and manner of service on Defendant was filed with the Court on January 11, 2022.
6. Defendant has failed to answer, plead or otherwise defend this action.

7. The time to answer, plead or otherwise defend expired on December 27, 2021, said date being 35 days after issuance of the Summons.

8. ☒ Defendant has not appeared in this action and the time to appear has expired.



OR



Defendant has appeared but has not answered or otherwise defended; Defendant's appearance is more fully described as follows: \_\_\_\_\_

9. Defendant is not an infant or incompetent person.

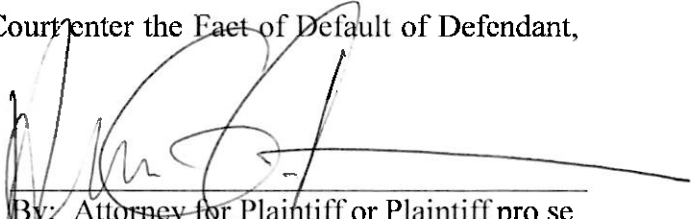
10. Pursuant to 50 U.S.C. Appx. § 521, I have made an investigation to ascertain whether Defendant is in the military service of the United States. The results of my investigation are as follows<sup>1</sup>: NOT APPLICABLE

From the foregoing facts, I am convinced that Defendant is not in the military service of the United States, as defined by 50 U.S.C. Appx. § 521 [Suggested Form D-101, "Affidavit of Non-Military Service," is attached.]

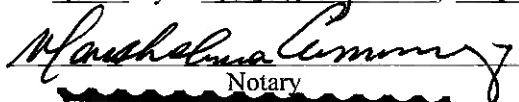
11. The Defendant is not the Debtor<sup>2</sup>.

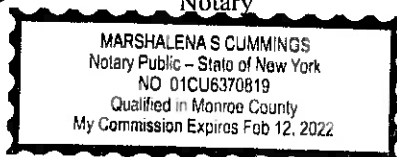
12. Plaintiff hereby requests that the Clerk of Court enter the Fact of Default of Defendant, pursuant to Bankruptcy Rule 7055(a).

Dated: 2/11/2022

  
By: Attorney for Plaintiff or Plaintiff pro se  
Anne Georges-Telasco  
Pro Se Plaintiff

Sworn to before me  
this 11<sup>th</sup> day of February, 2022.

  
Notary



<sup>1</sup>To properly complete the "Affidavit of Non-Military Service" required to be submitted in connection with a request for judgment by default, the requesting party is strongly encouraged to verify military status through the Defense Manpower Data Center ["DMDC"] Military Verification Service. The DMDC has a 24-hour website, and verification of military status can be printed from the website in a form document that contains the Department of Defense seal and the signature of the Director of the DMDC. A password to the DMDC website can be obtained by making a request on company letter to: DMDC, Military Verification, 1600 Wilson Blvd., Suite 400, Alexandria, VA 22209 or fax to 703-696-4156.

<sup>2</sup> If the Defendant is the Debtor, Judgment by Default must be sought by Notice of Motion and Motion, pursuant to Bankruptcy Rule 9014. See, In Re Emmerling, 223 B.R. 860 (B.A.P. 2d Cir. N.Y. 1997).

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

FILED

In Re: \_\_\_\_\_

Anne Georges Telasco,

Debtor(s).

2022 FEB 11 PM 1:27

U.S. BANKRUPTCY COURT  
W.D.N.Y. ROCHESTER  
AFFIDAVIT OF  
NON-MILITARY SERVICE  
[Bankruptcy Rule 7055(a)]

Anne Georges Telasco,

Plaintiff(s),

vs.

US Department of Education,

Defendant(s).

BK Case No. 2-21-20280-  
~~PWR~~  
AP Case No. 2-21-02003-  
~~PWR~~

The undersigned is the attorney for the Plaintiff in the above-captioned action or, in the alternative, the undersigned is the Plaintiff pro se in this action.

Pursuant to 50 U.S.C. Appx. § 521, I have made an investigation to ascertain if Defendant, NOT APPLICABLE ("Defendant"), is in the military service of the United States. The results of my investigation are as follows<sup>1</sup>: Defendant is the US Department of Education.

From the facts set forth above, I am convinced that Defendant is not in the military service of the United States as defined in the Service Members' Civil Relief Act of 1940, 50 U.S.C. Appx. § 521.

Dated: 2/11/2022

[Signature]  
By: Attorney for Plaintiff or Plaintiff pro se  
Anne Georges Telasco  
Pro Se Plaintiff

Sworn to before me  
this 11th day of February, 2022.

[Signature]  
Notary

MARSHALENA S CUMMINGS  
Notary Public - State of New York  
NO. 01CU6370819  
Qualified in Monroe County  
My Commission Expires Feb 12, 2022

<sup>1</sup>To properly complete the "Affidavit of Non-Military Service" required to be submitted in connection with a request for judgment by default, the requesting party is strongly encouraged to verify military status through the Defense Manpower Data Center ["DMDC"] Military Verification Service. The DMDC has a 24-hour website, and verification of military status can be printed from the website in a form document that contains the Department of Defense seal and the signature of the Director of the DMDC. A password to the DMDC website can be obtained by making a request on company letter to: DMDC, Military Verification, 1600 Wilson Blvd., Suite 400, Alexandria, VA 22209 or fax to 703-696-4156.

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

In Re:

Anne Georges Telasco,

Debtor(s).

ENTRY OF FACT OF  
DEFAULT  
[Bankruptcy Rule 7055(a)]

Anne Georges Telasco,

Plaintiff(s),

vs.

BK Case No. 2-21-20280-  
PWR  
AP Case No. 2-21-02003-  
PRW

US Department of Education,

Defendant(s).

Plaintiff has requested entry of the Fact of Default by the filing of an "Affidavit in Support of Application for Entry of Fact of Default," pursuant to Federal Rules of Bankruptcy Procedure ("Bankruptcy Rule") 7055(a).

It appears from the record that Defendant, US Department of Education, ("Defendant"), has failed to plead or otherwise defend this Adversary Proceeding as required by the Federal Rules of Bankruptcy Procedure.

Therefore, the Fact of Default is entered against Defendant as authorized by Bankruptcy Rule 7055(a).

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

FILED

In Re:

2022 FEB 11 PM 1:27

Anne Georges Telasco,

U.S. BANKRUPTCY COURT  
W.D.N.Y. ROCHESTERAFFIDAVIT OF AMOUNT DUE  
(Non-Core Proceeding)

Debtor (s).

Anne Georges Telasco,

Plaintiff (s),

BK Case No. 2-21-20280-  
PRW

vs.

AP Case No. 2-21-02003-  
PRW

US Department of Education,

Defendant (s).

In support of the Plaintiff's request that the Bankruptcy Court recommend and the District Court enter Judgment by Default against the Defendant, US Department of Education ("Defendant"), Plaintiff submits the following itemization of damages sought:

Principal amount prayed for in Complaint	\$ 281,941.04
Pre-judgment interest <sup>1</sup>	\$ 0.00
Cost	\$ 0.00
Attorney's Fees <sup>2</sup>	\$ 0.00
TOTAL DAMAGES	\$ 0.00
Plus per diem of \$0	\$ 0.00
since the date of the filing	
Plaintiff's request for default	

TOTAL DEFAULT JUDGMENT REQUESTED

281,941.04

\$

Date:

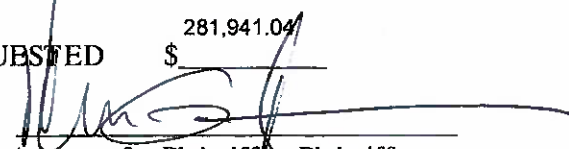
2/11/2022

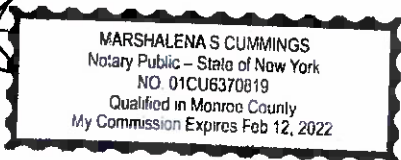
Sworn to before me

this 11th day of February, 2022



Notary

  
 Attorney for Plaintiff or Plaintiff pro se  
 Anne Georges Telasco  
 Pro Se Plaintiff



MARSHAENA S. CUMMINGS  
 Notary Public - State of New York  
 NO. 01CU6370819  
 Qualified in Monroe County  
 My Commission Expires Feb 12, 2022

1

Based on 28 U.S.C. § 1961; at the rate of N/A% since \_\_\_\_\_, through the date of the filing of the request (to be computed by Plaintiff).

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

In Re:

Anne Georges Telasco,

Debtor(s).

ORDER TO TRANSMIT  
RECORD TO DISTRICT  
COURT COMBINED WITH  
FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
RECOMMENDATION  
REGARDING PLAINTIFF'S  
REQUEST FOR ENTRY  
OF JUDGMENT BY DEFAULT  
(Non-Core Proceeding)

Anne Georges Telasco,

Plaintiff (s),

vs.

BK Case No. 2-21-20280-  
PRW  
AP Case No. 2-21-02003-  
PRW

US Department of Education,

Defendant (s).

The Clerk of Court is directed to transmit this Adversary Proceeding to the District Court for consideration of the following, pursuant to P.L. 98-353 (The Bankruptcy Amendments and Federal Judgeship Act of 1984).

TO THE DISTRICT COURT:

Having examined the record in this Adversary Proceeding and having found it to be a Non-Core Proceeding, the Bankruptcy Court is without authority to enter a final or dispositive Order or Judgment. (See, 28 U.S.C. § 157(c)). Plaintiff has requested entry of Judgment by Default against Defendant, US Department of Education ("Defendant").

This Court has determined that:



No hearing was necessary.



A hearing was necessary, which hearing was held on \_\_\_\_\_ at \_\_\_\_\_, on notice to \_\_\_\_\_ at which hearing there appeared \_\_\_\_\_ who was heard.

## FINDINGS

This Court now finds that the Complaint was filed by the Plaintiff on 08/16/2021; that an Affidavit of Service was filed attesting to service of the Summons and a copy of the Complaint upon the Defendant on 11/17/2021; that the Defendant failed to plead or otherwise defend within the time prescribed by law and rule; that the Plaintiff has duly and timely requested entry of Judgment by Default by application or affidavit filed with this Court on 02/11/2022 and that the Clerk of Court has certified and entered the Fact of Default on \_\_\_\_\_ pursuant to Rule 7055(a) of the Federal Rules of Bankruptcy Procedure.

## CONCLUSIONS

The Plaintiff is entitled under applicable law to entry of Judgment by Default.

## RECOMMENDATION

WHEREFORE, it is hereby recommended that the District Court award Judgment by Default to the Plaintiff and against Defendant in the total amount of \$ 281,941.04 (plus the allowed per diem amount of \$ 0.00 from the application for default), which amount is fully itemized in the attached "Affidavit of Amount Due (Non-Core Proceeding)" (Suggested Form D105) duly sworn to by Plaintiff's attorney or Plaintiff pro se and dated 02/11/2022.

Date: \_\_\_\_\_

\_\_\_\_\_  
United States Bankruptcy Judge

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

In Re:

Anne Georges Telasco,

Debtor(s).

**ORDER GRANTING  
JUDGMENT BY DEFAULT  
(Non-Core Proceeding)**

Anne Georges Telasco,

Plaintiff(s),

BK Case No. 2-21-20280-PRW

AP Case No. 2-21-02003-PRW

vs.

US Department of Education,

Defendant(s).

Based on the annexed "Order and Recommendation" of the Hon. \_\_\_\_\_,  
U.S.B.J., it is hereby:

**ORDERED, ADJUDGED AND DECREED**, that Judgment by Default, pursuant to Rule  
55 of the Federal Rules of Civil Procedure, be entered in favor of Plaintiff and against Defendant,  
\_\_\_\_\_, in the amount of \$ **281,941.04**.

Dated: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE